

STATE OF CONNECTICUT

# MANUAL FOR DRAFTING REGULATIONS



Prepared by

**The Legislative Commissioners' Office**

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## **PREFACE**

The Legislative Commissioners' Office of the Connecticut General Assembly is a nonpartisan office that provides legal counsel and legislative drafting services to all members and committees of the state legislature. Among the services provided is the review of regulations submitted by executive branch agencies to the Legislative Regulation Review Committee. Attorneys in the Legislative Commissioners' Office analyze each proposed regulation and prepare a report to the committee on each such regulation. The report includes a recommendation as to whether the regulation should be approved.

The Legislative Commissioners' Office has prepared this Regulations Drafting Manual primarily to assist state agencies in drafting regulations for submission to the Legislative Regulation Review Committee. This manual contains the standards that attorneys in the Legislative Commissioners' Office apply when reviewing proposed regulations for the committee.

## INTRODUCTION

Part A: Statutory Authority provides a brief overview of administrative law and the Uniform Administrative Procedure Act, codified in chapter 54 of the Connecticut General Statutes. The key point is that an agency must have the legal authority to adopt a regulation.

Part B: Language Convention and Usage presents the basic format and style in which executive agency regulations typically appear in this state. Because regulations impose certain requirements or restrictions on the rights of individuals, regulations have the force and effect of law. For this reason, regulations should be uniform in style and language conventions and should be drafted in a manner that is clear and concise. The guidelines outlined in this manual are similar to drafting guidelines used by the Legislative Commissioners' Office when drafting legislation.

In certain instances, the guidelines in this manual expand on precedents established by the Legislative Regulation Review Committee. The manual is not intended as a substitute for either the provisions of chapter 54 of the Connecticut General Statutes or for any guidelines established by the committee. Compliance with the guidelines in this manual does not guarantee approval of a proposed regulation by the committee. Rather, this manual is intended as a tool to enable agencies to craft language in a uniform manner that is consistent with the style of language in the Connecticut General Statutes.

Any questions or comments about this manual can be directed to the Legislative Commissioners' Office at (860) 240-8410. The e-mail address is [lco@po.state.ct.us](mailto:lco@po.state.ct.us).



## **PART A: STATUTORY AUTHORITY**

### **I. Generally**

In general, the principle of separation of powers holds that under our federal and state constitution, the legislative branch enacts laws and the executive branch executes or carries out laws. Pursuant to this principle, an administrative agency does not have authority to enact law. However, in accordance with state constitutional provisions, the legislature may delegate to an agency broad rulemaking powers, authorizing the agency to implement the law a legislature passes. The Connecticut constitution contains the following broad delegation of rulemaking power to Connecticut executive agencies: “The legislative department may delegate regulatory authority to the executive department. ...” (Art. XVIII of the Amendments to the Connecticut Constitution). Pursuant to this provision, the Connecticut General Assembly enacts laws that direct a specific state agency to adopt regulations that implement, carry out, provide details on, embellish upon or fill in the gaps of a particular statutory scheme. If an agency adopts a regulation that falls outside of the rulemaking powers delegated by statute to that agency, then the regulation exceeds statutory authority and is theoretically invalid.

### **II. Citing the Proper Statute as Authority for Adopting Regulations**

Statutory authority can be found in statutory provisions that authorize the agency to adopt regulations, as well as in statutory provisions that direct the agency to implement a specific statutory scheme. Frequently, these provisions appear in the same statutory section.

In general, an agency should not cite any of the provisions in chapter 54 of the Connecticut General Statutes as statutory authority. Although this chapter contains the provisions governing the rulemaking process all agencies must follow, agencies must look toward more specific language in the statutes that directs their specific agency to adopt regulations. Statutory authority is often found within the title or titles of the general statutes that provide powers and responsibilities to that particular agency.

### **III. Failure to Implement the Law as Directed by Statutory Authority**

Regulations should not repeat what is already in the statutes. Not only is paraphrasing or repeating the statutes unnecessary, but it is also undesirable because a statute may be amended, thereby necessitating an amendment to the regulation. Instead, regulations should embellish upon what is set forth in a statutory scheme. For example, suppose a statute states:

The department may grant a license to a person who is twenty-one years of age, has no criminal record and complies with any other factors determined by the department...

Any corresponding regulations should actually list those factors the department determines are appropriate for a person to comply with in order to be granted a license. To simply paraphrase in the regulations that a person must be 21 years of age, have no criminal record, and must comply with “any other factors determined by the agency” is unnecessary and insufficient.

#### IV. Exceeding Statutory Authority

When drafting regulations, the agency should scrutinize the authorizing statute to determine the extent to which the legislature has delegated rulemaking authority. For example, compare the following two sections of the Connecticut General Statutes:

**Broad delegation of authority in section 14-312:**

“The traffic authority shall have power to make regulations necessary to make effective the provisions of this chapter, and may make and enforce temporary regulations to cover emergencies and special conditions.”

*Discussion:* An agency with this type of authority could address almost any aspect of the subject matter of chapter 249 – Traffic Control and Highway Safety – provided the regulations are necessary to “make effective the provisions” of the chapter.

**Limited delegation of authority in section 16a-15a:**

“The Commissioner of Consumer Protection shall adopt regulations in accordance with the provisions of chapter 54 specifying the manner in which retail dealers, as defined in section 14-318, shall notify customers of the location of self-service and full-service fuel pumps or any pumps at which discounts are offered for cash payment or credit cards are accepted. The regulations shall include provision for the direction of handicapped drivers to the appropriate self-service pump as provided in section 14-235b.”

*Discussion:* If an agency with this type of authority included in its regulation any aspect of the subject matter beyond the notification provisions specified in the statute, the agency would be exceeding the authority delegated to it by the statute.

Similarly, a statute that authorizes regulations to govern the issuance of a particular type of license does not, by itself, authorize the regulations to provide for the suspension or revocation of such a license.

Further, regardless of whether the authorizing statute is broad or restrictive, certain types of provisions – such as fines, similar penalties or fees, the right to appeal to the courts, etc. – require specific statutory authority. For example, the Department of Revenue

Services would not be authorized to establish penalties by regulation if not for statutory provisions explicitly granting the department the authority, as illustrated by section 32-536(e) of the Connecticut General Statutes:

The Department of Revenue Services may adopt regulations which provide for monetary penalties and fines for noncompliance by exempt companies with the exempt activity provisions of sections 32-530 to 32-540, inclusive, which is other than intentional or reckless.

## **V. “Guidelines,” “Standards,” and other Agency Directives**

In order for a regulation to be valid, an agency must comply with the rulemaking process set forth in chapter 54 of the Connecticut General Statutes. Section 4-166(13) of the Connecticut General Statutes defines a regulation as follows:

(13) “Regulation” means each agency statement of general applicability, without regard to its designation, that implements, interprets, or prescribes law or policy, or describes the organization, procedure or practice requirements of any agency. The term includes the amendment or repeal of a prior regulation, but does not include (A) statements concerning only the internal management of any agency and not affecting private rights or procedures available to the public, (B) declaratory rulings issued pursuant to section 4-176 or (C) intra-agency or interagency memoranda.

According to the definition, if an agency drafts *any* directive that has general applicability, whether or not it is designated a regulation, it is considered a regulation. Thus, if an agency drafts “guidelines,” “procedures,” or any other statement that affects the rights of private persons or entities, that statement should be adopted as a regulation in accordance with the procedures set forth in chapter 54. If not, any regulation that refers to such a directive exceeds statutory authority.

## **VI. Summary**

In summary:

- Avoid repeating or paraphrasing the provisions of the Connecticut General Statutes in a regulation. Make sure the regulations actually implement the program or statutory scheme.
- Do not impose a requirement or authorize individuals to do something that goes beyond the scope of the underlying statutory scheme.
- All “guidelines,” “requirements,” “rules,” and other directives affecting individuals, regardless of the terminology the agency uses, should be adopted as regulations pursuant to the rulemaking process set forth in chapter 54 of the Connecticut General Statutes.

## **PART B: LANGUAGE CONVENTION & USAGE**

### **I. STANDARD FORMAT FOR PROPOSED REGULATIONS**

#### **A. Separating Proposed Regulations into Sections**

Separate each proposed regulation into a different section. Each section may consist of a regulation (*i.e.*, an entire section of a regulation), a consecutive string of regulations or a specific unit of a regulation, being amended, added or deleted.

*NOTE ON SUBDIVIDING REGULATIONS INTO UNITS:* “Unit” of a regulation refers to a subsection, subdivision, subparagraph or any other division within a regulation. For further discussion on subdividing sections into smaller units, see section II of this manual, beginning on page 16.

Designate the first section as “Section 1.” and abbreviate all subsequent sections as “Sec. \_\_\_.” For example: Section 1, Sec. 2., Sec. 3., etc.

If a proposed regulation contains only one section, (*i.e.*, only one regulation or one specific unit of a regulation is being amended, added or deleted) it is ***not*** necessary to designate that section as “Section 1.”

#### **B. Introductory Language**

Following the section of the proposed regulation, (*e.g.*, “Section 1.”, “Sec. 2.”, etc.) insert an introductory phrase in accordance with one of the following forms, depending on the action the agency is taking with regard to the regulation.

##### **1. Amending a regulation or amending a specific unit of a regulation**

###### **(a) General format**

To amend a **regulation**, use the following format for the introductory language:

“Section [section number] of the Regulations of Connecticut State Agencies is amended to read as follows:”
--

**OR**

“Sections [section number] to [section number], inclusive, of the Regulations of Connecticut State Agencies are amended to read as follows:”

To amend a **specific unit of a regulation**, use the following format for the introductory language:

“[Specific unit] of section [section number] of the Regulations of Connecticut State Agencies is amended to read as follows:”

**OR**

“[Specific unit] to [specific unit], inclusive, of section [section number] of the Regulations of Connecticut State Agencies are amended to read as follows:”

Follow the provisions of section II of this manual for guidelines on how to refer to a specific unit of a regulation. Although there is generally more than one acceptable way to refer to a specific unit of a regulation, as discussed in section II, the reference to a specific unit should be drafted in a manner that is most clear to the reader.

Example:

Section 1. Section 51-51k-10(i) of the Regulations of Connecticut State Agencies is amended to read as follows:

(i) Any COURT reporter [or language interpreter] present at the hearing shall be sworn as to confidentiality.

**OR**

Section 1. Subsection (i) of section 51-51k-10 of the Regulations of Connecticut State Agencies is amended to read as follows:

(i) Any COURT reporter [or language interpreter] present at the hearing shall be sworn as to confidentiality.

*Discussion: The first example presents another way to refer to a specific unit of a regulation., as discussed in section II of this manual. Because the format in the first example appears to be just as clear as the format in the second example, either format is acceptable.*

Example:

Sec. 4. Subdivisions (2) to (5), inclusive, of section 52-362e-5(b) of the Regulations of Connecticut State Agencies are amended to read as follows:

(2) At least [sixty] THIRTY days prior to submittal to DAS, the department shall mail notice of action to all [obligors] APPLICANTS identified for potential withholding.

(3) The [obligor's] APPLICANT'S name shall not be submitted to DAS if the results of a prehearing review indicate that the case is not appropriate for such action.

(4) If a fair hearing is requested, submittal shall not be made unless the fair hearing is denied or dismissed, or a decision which upholds the proposed withholding is rendered prior to the department's submittal to DAS.

(5) Subject to subdivisions (2) and (3) of this subsection, the [obligor's] APPLICANT'S name shall be submitted to DAS no earlier than [sixty] THIRTY days after the mailing date of the notice of action.

*Discussion: It is inappropriate to refer to the units as "section 52-362e-5(b)(2) to (5), inclusive," because it is awkward and less clear.*

**(b) Other considerations**

For the benefit of the reader, an amendment to a regulation should show a complete thought or sentence.

Avoid this:

Sec. 2. Section 46a-68-45(a)(1) of the Regulations of Connecticut State Agencies is amended to read as follows:

(1) insure that the race and sex composition of program participants [is consistent] COMPLIES with affirmative action;

*Discussion: Subdivision (1) is not a complete sentence. Consequently, all of subsection (a), which constitutes a complete sentence, should be shown.*

Make sure the citation in the introductory language accurately corresponds to the text of the regulation shown.

Avoid this:

Sec. 3. Section 22a-174-3(g) of the Regulations of Connecticut State Agencies is amended to read as follows:

(g)(1) The Commissioner may impose reasonable conditions within any permit to operate, [including requirements beyond normal due diligence in operation and maintenance.]

*Discussion: Because the introductory language states that subsection (g) is being amended, all of subsection (g) (i.e., subdivisions (1), (2) and so forth) should be shown. Alternatively, the introductory language could state that section 22a-174-3(g)(1) is amended.*

## 2. Adding a new regulation or adding a new unit to a regulation

### (a) General format

To add a **new regulation**, use the following format for the introductory language:

“The Regulations of Connecticut State Agencies are amended by adding section [section number] as follows:”

**OR**

“The Regulations of Connecticut State Agencies are amended by adding sections [section number] to [section number], inclusive, as follows:”

Example:

Sec. 3. The Regulations of Connecticut State Agencies are amended by adding section 51-275a-7 as follows :  
(NEW) Each party shall have the opportunity to file a post hearing brief at a time to be designated by the commission. The chairman shall notify all parties when the transcript has been filed.

To add a **new unit or units to an existing regulation**, use the following format for the introductory language:

“Section [section number] of the Regulations of Connecticut State Agencies is amended by adding [unit designator] as follows:”

**OR**

“Section [section number] of the Regulations of Connecticut State Agencies is amended by adding [unit designator] to [unit designator], inclusive, as follows:”

Follow the provisions of section II of this manual for guidelines on how to refer to a specific unit of a regulation.

Example:

Sec 2. Section 38a-88-7(c) of the Regulations of Connecticut State Agencies is amended by adding subdivisions (4) and (5) as follows:

(NEW) (4) The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

(NEW) (5) The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

**(b) Other considerations**

*NOTE ON USING “(NEW)” WHEN ADDING NEW REGULATION OR ADDING NEW UNIT TO AN EXISTING REGULATION:* Section 4-170(b) of the Connecticut General Statutes requires each new regulation to be preceded by the word “(NEW)” in capital letters. Likewise, when adding a new unit or units to an existing regulation, insert the word “(NEW)” in capital letters before each new unit. In those instances where “(NEW)” is inserted, the text should *not* be capitalized. See the *NOTE* in subsection C2 of this section for further discussion on use of the word “(NEW)”.

**Word of caution:** When adding a new unit to an existing regulation, make sure all appropriate changes are made to existing unit designators. If changes to existing text are necessary, then follow the format provided in subsection B1 of this section for *amending* a regulation or a unit of a regulation. That is, show all of the text in the regulation that needs to be amended.

YES:	NO:
<p>Example:</p> <p>Section 1. Section 38a-495a-7(a) of the Regulations of Connecticut State Agencies is amended to read as follows:</p> <p>(a)(1) In the event the state shall become a Medicare Select State, this section shall apply to Medicare Select policies and certificates, as defined in this section.</p> <p>(2) NO POLICY OR CERTIFICATE MAY BE ADVERTISED AS A MEDICARE SELECT POLICY OR CERTIFICATE UNLESS IT MEETS THE REQUIREMENTS OF THIS SECTION.</p>	<p>Example:</p> <p>Section 1. The Regulations of Connecticut State Agencies are amended by adding a new section 13-87-3(a)(2) as follows:</p> <p>(NEW) (2) No policy or certificate may be advertised as a Medicare Select policy or certificate unless it meets the requirements of this section.</p> <p>Discussion: In this instance, because a new subdivision is being added, the existing language in subsection (a) is now designated as subdivision (1). As a result, the subdivision designator “(1)” must be inserted in existing text. For this reason, all of subsection (a) must be shown, not just the new subdivision (2), and the format for amending a subsection must be used.</p>



### 3. Repealing a regulation

#### (a) General format

To repeal a **regulation**, use the following format for the introductory language:

“Section [section number] of the Regulations of Connecticut State Agencies is repealed.”
--

OR

“Sections [section number] to [section number], inclusive, of the Regulations of Connecticut State Agencies are repealed.”
--

*NOTE ON REPEALING A UNIT OR UNITS OF AN EXISTING REGULATION:*  
Repealing a regulation without showing the text of that regulation can only be done if the *entire* regulation (i.e., the entire section) is being deleted. To delete a **unit** of an existing regulation, follow the format for *amending* a unit of a regulation, as provided in subsection B1 of this section. That is, use the introductory language for amending a regulation or amending a unit of a regulation, and show all necessary text to be deleted and bracket it.

YES:	NO:
Example:  Section 38a-495a-13(b) of the Regulations of the Connecticut State Agencies is amended to read as follows: (b)(1) As soon as practicable, but not later than thirty days prior to the annual effective date of any Medicare benefit change, an issuer shall notify its policyholders and certificate holders of modifications it has made to Medicare supplement insurance policies. (2) The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms. [(3) Such notice shall not contain or be accompanied by any solicitation.]	Example:  Section 38a-495a-13(b)(3) is repealed.

**(b) Other considerations:**

**Sequence:** A section of a proposed regulation that repeals one or more regulations should always be the *last* section of the proposed regulations.

**Avoid reusing repealed section numbers:** Once an entire regulation has been repealed, do *not* reuse the repealed section number again. Instead, the regulation number should remain in the regulations and should be cited as follows: "Section \_\_\_\_\_. Section \_\_\_\_\_ is repealed."

## C. Deleting and Adding New Language

### 1. Deleting language

Language to be deleted (including punctuation) should be enclosed in brackets.

When making *any* change to a word, bracket the entire word and put the new word in capital letters.

YES:	NO:
... [sewer] SEWERAGE ...	... sewerAGE ...
... [insurers] INSURER'S ...	... insurer's ...
... [programming] PROGRAM ...	... program[ming] ...
... [an] A ...	... a[n] ...

When changing the designation of a unit of a regulation (*e.g.*, subsection, subdivision, etc.), bracket the parentheses around the unit designator to be deleted and underscore the unit designator, including parentheses, to be added.

YES:	NO:
[(a)] <u>(b)</u> ...	[(a)b] ...

## 2. Adding language

New language added to an existing regulation should be in capital letters.

New punctuation, new numbers, and new unit designators (*e.g.*, (a), (1), (A), (i), etc.) should be underscored. However, it is *not* necessary to underscore new punctuation, new numbers or new unit designators if the numbers, punctuation or unit designators appears within a block of new text *and* it is clear that it is new.

YES:	NO:
... IN ACCORDANCE WITH 42 USC 211. IF AN APPLICANT ...	... IN ACCORDANCE WITH <u>42 USC 211</u> . IF AN APPLICANT ...  Discussion: Because the reference to “42 USC 211” appears within a block of new text and it is clear that the text is new, it is unnecessary to underscore the numbers. Also, note that “USC” is not underscored, even though the text will remain in capital letters when it is published as a regulation.

YES:	NO:
... IN ACCORDANCE WITH 42 USC <u>211</u> . If an applicant ...	... IN ACCORDANCE WITH 42 USC 211. If an applicant ...  Discussion: Because the number “211” appears at the end of a new block of text, it should be underscored.

### Example:

- (2) Permanent classifications of crane operator licenses are:
- (A) Tower crane operator license; [and]
  - (B) Hydraulic crane operator license;
  - (C) DERRICK CRANE OPERATOR LICENSE; AND
  - (D) MOBILE CABLE CRANE OPERATOR LICENSE.

*Discussion: Because subparagraph designator (D) appears within a block of new text and it is clear that the text is new, it is unnecessary to underscore the designator.*

It is **not** necessary to underscore any language that has been capitalized because it is new language, even if the new language will remain in capital letters once it is published as a regulation, so long as it is apparent that the language is new.

YES:	NO:
(a) THE GENERAL EXAMINATION ...	(b) <u>T</u> HE GENERAL EXAMINATION ...
... ORDER OF THE FEDERAL ENERGY REGULATORY COMMISSION.	... ORDER OF THE <u>F</u> EDERAL <u>E</u> NERGY <u>R</u> EGULATORY <u>C</u> OMMISSION.
... IN ACCORDANCE WITH 42 USC 211, THE APPLICANT ...	... IN ACCORDANCE WITH 42 <u>U</u> SC 211, THE APPLICANT ...

*NOTE ON USING “(NEW)” WHEN ADDING NEW REGULATION AND NEW UNIT TO AN EXISTING REGULATION:* When adding a new regulation, section 4-170(b) of the Connecticut General Statutes requires the new regulation to be preceded by the word “(NEW)”. In these instances, the text of the new regulation should be in **lower case**. Similarly, if a new unit of a regulation is being added, the new unit should be preceded by the word “(NEW)” and the new text should be in **lower case**. This format is only appropriate where the introductory language states you are adding a new regulation or adding a new unit to an existing regulation. See subsection B2 of this section for a discussion on and examples of adding new regulations and adding new units to an existing regulation.

### 3. Sequence

New language should always be inserted **after** the bracketed language.

<u>Example:</u>
[Each] NOT LATER THAN JANUARY 1, 1998, EACH licensee shall ...

**Exception:** New punctuation (which should be underscored) should immediately follow the text and precede the opening bracket.

YES:	NO:
... Department of PUBLIC Health; [Services.]	... Department of PUBLIC Health [Services.];

## II. SUBDIVIDING SECTIONS INTO SMALLER UNITS

### A. The Anatomy of a Section

#### 1. General rule

Regulations should be subdivided according to the following breakdown of units:

Example:

Section 10a-45-210.

    Subsection (a)

        Subdivision (1)

            Subparagraph (A)

                Subclause (i)

#### 2. Exception – A list following an introductory statement

If a section that is not broken into subsections contains a list of items that cannot be read without an initial statement or paragraph, use subdivision numerical designators -- rather than alphabetical designators -- to list the items (*e.g.*, (1), (2), etc.), even though alphabetical designators would normally be the next lowest subpart designator.

Example:

Section 13-15-2.

In order to qualify, an individual shall be (1) at least sixty years of age; (2) domiciled in this state; and (3) the record owner of the property.

Example:

Section 14-80a-5a.

Measurement tolerances shall take into account the effects of the following factors:

- (1) the standard practice of reporting field sound level measurements to the nearest whole decibel;
- (2) variations resulting from commercial instrument tolerances;
- (3) variations resulting from the topography of the noise measurement site; and
- (4) variations resulting from reflected sound from small objects allowed within the test site.

## B. Citing Units of a Regulation

### General format

Citing a specific unit of a section of a regulation can be accomplished two different ways:

- (1) Cite each subpart of the section starting with the smallest subpart, ending with the section number.

Example:

subparagraph (B) of subdivision (1) of subsection (c) of section 22-43-2

**OR**

- (2) Cite the section number first followed by each subpart of the section, ending with the smallest subpart. Note that it is not necessary to identify the subparts as such (*e.g.*: “subsection”, “subdivision”, etc.).

Example:

section 22-43-2(c)(1)(B)

### III. REFERENCES TO STATE AND FEDERAL REGULATIONS AND STATUTES

#### A. Citing Another Unit within the Same Regulation

##### 1. General format

To cite another unit within the same regulation, use *either* of the following two forms:

- (1) Cite each part of the section starting with the smallest unit you wish to cite, ending with “of this [largest unit]”.

Example:

“subparagraph (B) of subdivision (1) of subsection (c) of this section”

Example:

“subparagraph (B) of subdivision (1) of this subsection”

**OR**

- (2) Cite the second to largest unit first followed by succeeding smaller units, ending with “of this [largest unit]”. Note that it is not necessary to identify the subparts as such, (e.g.: “subdivision”, “subparagraph”).

Example:

“subsection (c)(1)(B) of this section”

Example:

“subdivision (1)(B) of this subsection”

## 2. Avoid ambiguous references

Never use “this regulation”, “above”, “below”, “hereinafter” or any similar term.

YES:	NO:
... of subsection (a) of this section	... of subsection (a) above OR ... of this regulation
... of subsection (c)(2) of this section OR ... of subdivision (2) of subsection (c) of this section	... of subsection (c)(2) below OR ... hereinafter OR ... herein OR ... above
Example:  The provider shall include the information set forth in subsection (a) of this section for each of the agency’s employees who render SBCH services.	Example:  The provider shall include the information above for each of the agency’s employees who render SBCH services.

## B. Citing Another Connecticut Regulation

### 1. General format

To cite another section of the Connecticut regulations, use the following form:

“section ____ of the Regulations of Connecticut State Agencies”
---



## 2. Avoid ambiguous references

Never use “these regulations”, “above”, “below”, “hereinafter” or any similar term.

YES:	NO:
... section 12-34-14 of the Regulations of Connecticut State Agencies	... section 12-34-14 above OR ... section 12-34-14 below OR ... of these regulations
...of section 29-109-1c(a)(2) of the Regulations of Connecticut State Agencies OR ... of subdivision (2) of subsection (a) of section 29-109-1c of the Regulations of Connecticut State Agencies	... of section 29-109-1c(a)(2) below OR ... hereinafter OR ... herein OR ... above

## C. Citing the Connecticut General Statutes

### 1. General format

To cite a section of the Connecticut General Statutes, use the following form:

“section ____ of the Connecticut General Statutes”
--

YES:	NO:
... section 12-34 of the Connecticut General Statutes	... section 12-34 of the Conn. Gen. Stats. <b>OR</b> ... section 12-34 of the general statutes <b>OR</b> ... section 12-34, C.G.S.
... section 14-227b(c) of the Connecticut General Statutes <b>OR</b> ... subsection (c) of section 14-227b of the Connecticut General Statutes	... section 14-227b(c) of the Conn. Gen. Stats. <b>OR</b> ... section 14-227b(c) of the general statutes <b>OR</b> ... section 14-227b(c), C.G.S.

## 2. Citing a specific unit within a section of the Connecticut General Statutes

The same formats provided in section IIB of this manual apply when referring to a specific unit of a section of the Connecticut General Statutes.

Example:

... subparagraph (C) of subdivision (4) of subsection (b) of section 31-57e of the Connecticut General Statutes ...

**OR**

... section 31-57e(b)(4)(C) of the Connecticut General Statutes ...

## 3. Avoid “as amended from time to time”

Never insert “as amended from time to time” after a citation to the Connecticut General Statutes. Doing so may result in an agency exceeding the scope of its authority delegated to it by statute.

YES:	NO:
... section 12-34 of the Connecticut General Statutes	... section 12-34 of the Connecticut General Statutes, as amended from time to time

## 4. Avoid “as amended by public act \_\_\_\_”

Never insert “as amended by public act \_\_\_\_” after a reference to the Connecticut General Statutes. While this type of citation may be necessary in the Connecticut General Statutes, it is not appropriate in regulations.

YES:	NO:
... section 12-34 of the Connecticut General Statutes	... section 12-34 of the Connecticut General Statutes, as amended by public act 95-86

## 5. Referring to a public act in lieu of the Connecticut General Statutes and assigning temporary section numbers to new regulations

Sometimes it is necessary to refer to a public act *in lieu of* referring to a section of the Connecticut General Statutes. This is appropriate if a public act adds a new section to the general statutes that a regulation must refer to, but the new section has not yet been codified, and therefore has not yet been assigned an official statutory section number.<sup>1</sup> In this instance, the agency must cite the applicable section or sections of the public act because there is no official statutory section number to cite.

Moreover, there are times when a public act directs an agency to draft new regulations, and an agency drafts these new regulations before official statutory sections are assigned to the public act sections. When this occurs, assign the new regulations temporary section numbers, as provided in the example below. The agency must later amend the regulation to insert official section numbers once the applicable section or sections of the public act are assigned official statutory section numbers.

Example:

Sec.3. The Regulations of Connecticut State Agencies are amended by adding sections xx-xxx-1 to xx-xxx-8, inclusive, as follows:

(NEW) Section xx-xxx-1. Application Procedure for Bail Enforcement Agent License.

(a) Any person desiring ....

....

(NEW) Section xx-xxx-8. Suspension or Revocation of a Bail Enforcement Agent's License.

Any bail enforcement agent's license may be suspended or revoked by the Commissioner of Public Safety, provided notice shall have been given to the licensee to appear before the commissioner to show cause why the license should not be suspended or revoked, upon a finding by the commissioner that the licensee has violated any of the terms or provisions of sections 1 to 10, inclusive, of public act 97-287 or sections xx-xxx-1 to xx-xxx-8, inclusive, of the Regulations of Connecticut State Agencies.

## 6. Avoid simultaneously citing and paraphrasing the Connecticut General Statutes

If a regulation must refer to the Connecticut General Statutes, ***do not*** cite a section of the general statutes and *also* copy or paraphrase the actual provisions of that statutory section because any future amendments to that statutory section could create an internal conflict in the regulation. Instead, either:

- (1) cite the applicable section of the general statutes, or

---

<sup>1</sup> The general statutes are published at the beginning of each odd-numbered year. Thus, any legislation passed during a legislative session in an odd-numbered year is not codified for over a year. During this period, new sections do not have official statutory section numbers.

- (2) do not cite the general statutes but specify the substance of the general statutes that apply to the regulation.

Avoid this:

(5) “Nursing services”, as defined in section 20-87a(a) of the Connecticut General Statutes, means the process of diagnosing human responses to actual or potential health problems, providing supportive and restorative care, health counseling and teaching, case finding and referral, collaborating in the implementation of a total health care regimen and executing the medical regimen as established under the respective nurse’s code of practice, as defined under state law.

*Discussion:*

*It is preferable to say, “(5) “Nursing services” shall have the same meaning as provided in section 20-87a(a) of the Connecticut General Statutes.”*

*Generally, it is more accurate to cite to the definition in the Connecticut General Statutes rather than copying the text that appears in the general statutes. See section III of Part A (Statutory Authority) of this manual for a discussion on copying or paraphrasing the general statutes.*

## D. Citing Federal Regulations

### 1. General format

To cite a provision or provisions of the Code of Federal Regulations, use one of the following forms, as appropriate:

- (1) To cite a specific **section** of the Code of Federal Regulations:

Example:

7 CFR 631.1 (i.e., Title 7, Part 631, Section 631.1)

- (2) To cite a specific **part** of the Code of Federal Regulations:

Example:

7 CFR 631 (i.e., Title 7, Part 631)

- (3) To cite a specific **subpart** of the Code of Federal Regulations:

Example:

7 CFR 631, Subpart A (i.e., Title 7, Part 631, Subpart A)

YES:	NO:
... 7 CFR 631.1	... 7 Code of Federal Regulations 631.1 <b>OR</b> ... Title 7 of the Code of Federal Regulations, Section 631.1 <b>OR</b> ... 7 C.F.R. 631.1

## 2. Using “as amended from time to time”

Pursuant to section 4-170(b), the Regulation Review Committee may allow a regulation to specifically incorporate by reference *future* amendments to federal statutes or regulations if the Regulation Review Committee finds that a federal statute requires, as a condition of the state exercising regulatory authority, that a Connecticut regulation at all times must be identical to that federal statute or regulation. In that case, a comma and the words “as amended from time to time” should be inserted after the citation to the federal statute or regulation.

Example:

Section 19a-145-7.

Medicaid payment for any laboratory service is limited to services provided by Medicaid providers who are in compliance with the provisions set forth in 42 CFR 441.154, as amended from time to time.

Note that section 4-170(b) requires the agency to submit those future amendments to the Regulation Review Committee.

## 3. Incorporating other regulations, etc. by reference

Pursuant to section 4-170(b) of the Connecticut General Statutes, the Regulation Review Committee may allow a regulation to incorporate by reference, in whole or in part, any other code, rule, regulation, standard or specification *if* two conditions are met:

- (1) the regulation provides the address and telephone number of the location at which a member of the public may obtain a copy of the document that is incorporated by reference; and
- (2) copies of such document are submitted to the Regulation Review Committee with the proposed regulation.

This does not apply to regulations promulgated by a federal agency that are published in the Code of Federal Regulations.

## E. Citing Federal Statutes

### 1. General format

To cite a provision or provisions of the United States Code, use one of the following forms, as appropriate:

- (1) To cite a specific **section** of the United States Code:

<u>Example:</u> 42 USC 4577 (i.e., Title 42, Section 4541)
---

- (2) To cite a specific **chapter** of the United States Code:

<u>Example:</u> 42 USC, Chapter 60 (i.e., Title 42, Chapter 60)
--

- (3) To cite a specific **subchapter** of the United States Code:

<u>Example:</u> 42 USC, Chapter 60, Subchapter III (i.e., Title 42, Chapter 60, Subchapter III)
---

- (4) To cite a specific **part** of the United States Code:

<u>Example:</u> 42 USC, Chapter 60, Subchapter III, Part B (i.e., Title 42, Chapter 60, Subchapter III, Part B)
---

- (5) To cite a specific **act**:

<u>Example:</u> the federal Single Audit Act, Public Law 98-502
--

YES:	NO:
... the Public Works Economic Development Act, Public Law 89-136	... the Public Works Economic Development Act, Public Law 136 of the 89 <sup>th</sup> Congress of the United States
... 26 USC 999	... 26 USC Section 999 <b>OR</b> ... 26 U.S.C. 999 <b>OR</b> ... 26 USCA 999 <b>OR</b> ... Section 999, Title 26 of the United States Code

## 2. Using “as amended from time to time”

In certain circumstances, it is appropriate to insert “as amended from time to time” after a citation to a federal statute. See subsection D2 of this section for further discussion.

## IV. DEFINITIONS

### A. When to Define a Term

Definitions are appropriate:

- to avoid repetition (i.e., if the term will be used frequently)
- to limit or expand the meaning of a word beyond its ordinary meaning
- to translate technical words into common language

Generally, definitions are *not* appropriate:

- to merely repeat the dictionary meaning of a word or term
- if the term is used only once
- if the term is already defined by statute

### B. General Rules

#### 1. Placement of definitions

Place a definition at the beginning of the section or group of sections to which the definition applies.

#### 2. General format

Cite those sections of the regulations that a definition applies to using one of the following forms of introductory language, as appropriate:

Example:  
“As used in this section:”

**OR**

Example:  
“As used in section \_\_\_\_ to section \_\_\_\_, inclusive, of the Regulations of Connecticut State Agencies:”

List all defined terms numerically ((1), (2), (3), etc.).

List all defined terms alphabetically, to the extent possible.



Capitalize the first word of each term being defined, but do not capitalize subsequent words appearing within a term being defined, unless the entire term is capitalized throughout the regulations.

YES:	NO:
... (3) "Utility service" means ...	... (3) "Utility Service" means ...  Discussion: Because the term "utility service" is not capitalized wherever the term is used throughout the regulations, "service" should not be capitalized in the definition.

Put the defined term in quotation marks followed by "means" (and in some circumstances "includes").

YES:	NO:
... means ...	... shall mean ...
... includes ...	... shall include ...
... does not include ...	... shall not include ...

Follow each definition with a semicolon (;) and insert "and" at the end of the second to last definition.

Example:

Section 16-1-53.

As used in sections 16-1-53 to 16-1-59, inclusive, of the Regulations of Connecticut State Agencies:

(1) "Customer" means a person or entity that has contracted with a utility company for service;

(2) "Termination" means the voluntary discontinuation of service to an individual utility customer but does not include interruption or curtailment of service resulting from forced outages, energy or capacity shortages or other emergencies; and

(3) "Utility service" means the provision of gas, electricity or water by a utility company to a customer at retail rates and includes, without limitation, residential utility service.

Example:

Section 16-3-100.

(a) As used in this section:

(1) "Customer" means a person or entity that has contracted with a utility company for service;

(2) "Termination" means the voluntary discontinuation of service to an individual utility customer but does not include interruption or curtailment of service resulting from forced outages, energy or capacity shortages or other emergencies; and

(3) "Utility service" means the provision of gas, electricity or water by a utility company to a customer at retail rates and includes, without limitation, residential utility service.

(b) (1) Utility service may be terminated without notice ...

**Avoid** using dashes, slashes, parentheses or similar punctuation within a definition.

YES:	NO:
"Medical appropriateness" or "medically appropriate" means ...	"Medical appropriateness/Medically appropriate" means ...
"Individualized education program" or "IEP" means ...	"Individualized education program (IEP)" means ...

### 3. Avoid substantive provisions

**Avoid** including substantive provisions within a definition (e.g., a prohibition or requirement).

Avoid this:

... (3) "label" means a display of written or printed matter on the container of a substance, and in order to comply with any requirement under this section that a statement or other information appear on the label of the substance, the statement or other information shall be placed on the outside container or be legible through the outside container.

*Discussion: In this instance, the clause, "and in order to comply ... container." is a substantive provision and therefore does not belong in the definition.*

Avoid this:

... (2) “Allied health professional” means an individual who is licensed or certified by the Department of Public Health or the Department of Education to provide school based child health services. The activities and services of an allied health professional whose scope of practice is defined under state law is subject to such scope of practice in performing services under this section.

*Discussion: In this instance, the second sentence is a substantive provision and therefore does not belong in the definition.*

#### 4. Avoid paraphrasing the Connecticut General Statutes

**Avoid** paraphrasing or repeating the definition of a term that is already defined in the Connecticut General Statutes. Not only is this incorrect form, but any alteration or deviation from the term as it is defined by statute may result in an agency exceeding statutory authority. **Instead**, cite the section of the general statutes where the term is defined, using the following format:

“[Term]” means “[term]”, as defined in section \_\_\_\_ of the Connecticut General Statutes,

Note that it is unnecessary to cite the particular subdivision where the term is defined.

YES:	NO:
“Domestic insurer” means “domestic insurer” as defined in section 38a-1 of the Connecticut General Statutes;	“Domestic insurer” means any insurer that has been chartered by, incorporated, organized or constituted within or under the laws of this state; <b>OR</b> “Domestic insurer” shall have the meaning assigned in section 38a-1(11)(B) of the Connecticut General Statutes;

## V. PLAIN ENGLISH

Draft the text of a regulation in plain English to the extent possible. Here are some general rules:

- Do not use “terms of art” even if the words are familiar to the regulated community, unless they are defined.
- Do not use an obscure word when a simple and familiar word will do.
- Do not use many words when the same meaning can be expressed in a few, and do not use pairs of words having the same effect.
- Do not use ambiguous terms and terms that could be construed more than one way.
- Do not use the plural when the singular will suffice.
- Do not use “etc.” or any abbreviations.

The following table provides some common examples:

YES:	NO:
regulations	rules and regulations
adopt regulations	promulgate regulations
each	each and every
sole and exclusive	exclusive
The employer shall ...	The employer is hereby directed to ...
The employee may ...	The employee is authorized to ...
No person shall ...	It shall be unlawful for any person to ...
If ...	In the event that ...
Void	Null, void and of no effect
... every two years OR ... twice a year	... biennially OR ... biannually

## VI. ACTIVE VOICE

Draft in the active voice to the extent possible.

YES:	NO:
"The billing provider shall update the billing provider agreement annually."	"The billing provider agreement shall be updated annually."
"The performing provider shall include on the list the name of the agency and shall provide the information set forth in subsection (a) of this section for each of the agency's employees who render SBCH services. "	"The list shall include the name of the agency, and the information set forth in subsection (a) of this section shall be provided for each of the agency's employees who render SBCH services."

## VII. GRAMMAR

### A. “and” vs. “or”

The conjunctions “and” and “or” should not be used interchangeably in the regulations.

Use “and” to connect requirements that are additive to each other.

Use “or” to indicate an alternative OR to indicate both an addition and an alternative. That is, “or” can mean “and/or”.

**Never** use “and/or”. **Instead**, use “or”, “or ... or both”, “or ... or any of these”, or similar language, as appropriate.

YES:	NO:
... or ... OR ... or ... or both OR ... or any of these	... and/or ...

Example:

... (1) “Allied health professional” means an individual who is licensed or certified by the Department of Public Health or the Department of Education;

### B. “shall” vs. “must” vs. “will”

Use “shall” when the agency seeks to impose a mandate and does not confer any discretion in carrying out the action so directed.

**Never** use “must”.

**Avoid** using “may not”. **Instead**, use “shall not” or “no person shall”.

Use “will” to denote something that will happen in the future, *not* to denote a requirement.

<p><u>Example:</u></p> <p>... The seller <i>shall</i> maintain such food under conditions that <i>will</i> inhibit the growth of bacteria ...</p>
---

YES:	NO:
... shall ...	... must ...
No person shall ... <b>OR</b> A person shall not ...	A person may not ...
Example: The billing provider shall update the billing provider agreement annually.	Example: The billing provider must update the billing provider agreement annually.
Example: Medicaid shall reimburse a provider for SBCH services, provided the following requirements are met: ...	Example: Medicaid will reimburse a provider for SBCH services, provided the following requirements are met: ...
Example: Small water and sewerage companies shall not be required to comply with section 16-1-56 of the Regulations of Connecticut State Agencies. <b>OR</b> Small water and sewerage companies are not required to comply with section 16-1-56 of the Regulations of Connecticut State Agencies.	Example: Small water and sewerage companies will not be required to comply with section 16-1-56 of the Regulations of Connecticut State Agencies.

### C. Timeframes

**Avoid** “within \_\_ days of ...”. **Instead**, use “not more than \_\_ days after ...” or “not later than \_\_ days after...”.

YES:	NO:
“Not more than thirty days after completion of the exam, ...”	“Within thirty days of completing the exam, ...”

## VIII. PUNCTUATION

### A. Use Complete Sentences

Always use punctuation so that regulations are drafted as complete sentences. Every item in a list should end with some type of punctuation, and the second to last item in a list should end with the term “and” or “or”.

YES:	NO:
<p>(c) A petition filed under subsection (a) of this section shall include:</p> <ol style="list-style-type: none"> <li>(1) The name and address of the applicant;</li> <li>(2) the address of the applicant’s place of employment; and</li> <li>(3) specification of the reason for seeking relief.</li> </ol>	<p>(c) A petition filed under subsection (a) of this section shall include:</p> <ol style="list-style-type: none"> <li>(1) The name and address of the applicant.</li> <li>(2) the address of the applicant’s place of employment.</li> <li>(3) specification of the reason for seeking relief.</li> </ol> <p style="text-align: center;"><b>OR</b></p> <p>(c) A petition filed under subsection (a) of this section shall include:</p> <ol style="list-style-type: none"> <li>(1) The name and address of the applicant</li> <li>(2) the address of the applicant’s place of employment</li> <li>(3) specification of the reason for seeking relief</li> </ol>

### B. Series

In a coordinate series of 3 or more words, clauses or phrases, do not insert a comma after the word, clause or phrase before the conjunction.

YES:	NO:
... make, sell or dispose ...	... make, sell, or dispose ...



## IX. CAPITALIZATION

### A. Generally follow capitalization rules as applied in the Connecticut General Statutes

An agency should refer to the authorizing statute or the statutory scheme under which a regulation falls to determine whether a word should be capitalized. In general, regulations should follow the use of capitalization in the Connecticut General Statutes.

### B. Proper Nouns

Capitalize proper nouns, such as the names of states, counties and cities, official agencies, boards and commissions, and titles of state officials. Also, capitalize common nouns used as proper nouns.

Example:

- the State Historic Preservation Board
- the State Historic Preservation Officer
- the Board of Governors of Higher Education
- the State Fire Marshal
- the Deputy State Fire Marshal
- the Secretary of the State
- the Codes and Standards Committee
- The University of Connecticut
- the Board of Trustees for the Connecticut State University System
- the Commissioner of the Public Utility Control Authority
- the Hartford Board of Education
- the Chief Justice

Do **not** capitalize the initial letter of a generic reference to an agency, board, commission, official, etc.

Example:

- the fire marshal
- the building official
- the building inspector
- chief executive officer of the municipality
- the department
- the commissioner
- the mayor
- the planning and zoning commission
- the state
- the judge

Do **not** capitalize words such as “city” or “town” when used before the name of a city, town, etc. Capitalize the word “city” or “town” only when it is part of the corporate name of the city.

Example:

- the town of Westbrook
- the city of New Haven

Do **not** capitalize the word “state” when it precedes the name of a state.

Example:

- the state of Connecticut

## C. Definitions

Capitalize the first word of each term being defined, but do not capitalize subsequent words appearing within a term being defined, unless the entire term is capitalized throughout the regulations.

Example:

Section 16-1-53.

As used in sections 16-1-53 to 16-1-59, inclusive, of the Regulations of Connecticut State Agencies:

- (1) "Customer" means a person or entity that has contracted with a utility company for service;
- (2) "Termination" means the voluntary discontinuation of service to an individual utility customer but does not include interruption or curtailment of service resulting from forced outages, energy or capacity shortages or other emergencies; and
- (3) "Utility service" means the provision of gas, electricity or water by a utility company to a customer at retail rates and includes, without limitation, residential utility service.

## D. Courts

Capitalize references to court systems.

Example:

- the Supreme Court
- the Appellate Court
- the Superior Court
- the United States District Court for the District of Columbia

Do **not** capitalize references to specific state courts.

Example:

the superior court for the judicial district of Hartford

## E. Popular Names of Federal and State Laws and Regulations

Capitalize popular names of federal and state acts and popular names of federal and state regulations.

Example:

- the Davis-Bacon Act
- the Inland Wetlands and Watercourses Act
- the Public Health Code
- the State Building Code

Do **not** capitalize the word “federal” unless the word is part of the official name of the act or the letter “F” is part of an official acronym for the act.

Example:

- the federal Social Security Act (SSA)
- the federal Single Audit Act

## **Agency Checklist for Drafting Regulations**

In drafting a regulation, state agency personnel should keep in mind the following guidelines, in addition to the rules provided in this manual:

### **1. Statutory Authority**

- Ensure that the authorizing statute, the provisions of which the regulation implements, provides the authority to regulate the activity the agency proposes to regulate.
- Draft the regulation to implement the law as intended by the statute.
- Address each area the statute requires the regulation to specify.
- Do not exceed the scope of authority delegated in the statute.

### **2. Text and Language Conventions**

- In amending a regulation, use language that is identical to the current regulation in effect at the Office of the Secretary of the State and published in the Regulations of Connecticut State Agencies.
- Do not omit provisions that are to be deleted; bracket them.
- Capitalize or underscore, as the case may be, new language.

### **3. Numbering and lettering**

- Assign section numbers to each section of the regulation according to the section number of the authorizing statute under which the regulation is being enacted.
- Designate sections of the proposed regulation with numbers accordingly.
- Use numbers in parentheses for definitions.
- Use letters in parentheses for subsections.

### **4. Drafting**

- Use clear, unambiguous language.
- Properly define technical terms and words used in a sense other than their ordinary meaning.
- Use introductory language that corresponds to the language in the section or the specific subunit of the regulation.
- Do not repeat or paraphrase language in the authorizing statute.

### **5. Proofreading**

Prior to submitting the regulation to the committee, **carefully** proofread the regulation for technical errors, grammar and proper spelling.

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*"Let all the laws be clear, uniform and precise." -Voltaire*